

UNITED STATES DISTRICT COURT

Northern

District of

New York

UNITED STATES OF AMERICA

V.

BEN E. PHILLIPS, JR.

Date of Original Judgment: April 23, 2009
(Or Date of Last Amended Judgment)

Reason for Amendment:

Correction of Sentence on Remand (18 U.S.C. 3742(f)(1) and (2))
 Reduction of Sentence for Changed Circumstances (Fed. R. Crim. P. 35(b))
 Correction of Sentence by Sentencing Court (Fed. R. Crim. P. 35(a))
 Correction of Sentence for Clerical Mistake (Fed. R. Crim. P. 36)

AMENDED JUDGMENT IN A CRIMINAL CASE

Case Number: 1:09-CR-238 RFTUSM Number: 15507-052Paul Evangelista, AFPD

Defendant's Attorney

Modification of Supervision Conditions (18 U.S.C. §§ 3563(c) or 3583(e))
 Modification of Imposed Term of Imprisonment for Extraordinary and Compelling Reasons (18 U.S.C. § 3582(c)(1))
 Modification of Imposed Term of Imprisonment for Retroactive Amendment(s) to the Sentencing Guidelines (18 U.S.C. § 3582(c)(2))
 Direct Motion to District Court Pursuant 28 U.S.C. § 2255 or
 18 U.S.C. § 3559(c)(7)
 Modification of Restitution Order (18 U.S.C. § 3664)

THE DEFENDANT:

 pleaded guilty to count(s) _____Count I of Information 09-CR-238 pleaded nolo contendere to count(s) _____ which was accepted by the court. was found guilty on count(s) _____ after a plea of not guilty.

The defendant is adjudicated guilty of these offenses:

<u>Title & Section</u>	<u>Nature of Offense</u>	<u>Offense Ended</u>	<u>Count</u>
8 U.S.C. § 1324(a)(2)(A)	Bring and attempt to bring an illegal alien into the United States	4/7/2009	1
18 U.S.C. § 2			

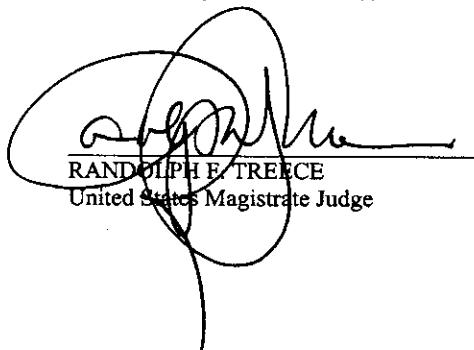
The defendant is sentenced as provided in pages 2 through 4 of this judgment. The sentence is imposed in accordance with 8 U.S.C. § 3553 and the Sentencing Guidelines.

The defendant has been found not guilty on count(s) _____
 Count(s) _____ is are dismissed on the motion of the United States.

It is ordered that the defendant must notify the United States Attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid. If ordered to pay restitution, the defendant must notify the court and United States attorney of material changes in economic circumstances.

April 21, 2009

Date of Imposition of Judgment



RANDOLPH E. TREECE
United States Magistrate Judge

May 11, 2009

Date

DEFENDANT: **Ben E. Phillips, Jr.**
CASE NUMBER: **09-CR-238 RFT**Judgment — Page 2 of 4**IMPRISONMENT**

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a total term of:

TIME SERVED

The court makes the following recommendations to the Bureau of Prisons:

The defendant is remanded to the custody of the United States Marshal.

The defendant shall surrender to the United States Marshal for this district:

at _____ a.m. p.m. on _____

as notified by the United States Marshal.

The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons:

before 2 p.m. on _____

as notified by the United States Marshal.

as notified by the Probation or Pretrial Services Office.

RETURN

I have executed this judgment as follows:

Defendant delivered on _____ to _____

at _____, with a certified copy of this judgment.

UNITED STATES MARSHAL

By _____
DEPUTY UNITED STATES MARSHAL

DEFENDANT: **Ben E. Phillips, Jr.**
CASE NUMBER: **09-CR-238 RFT****CRIMINAL MONETARY PENALTIES**

The defendant must pay the total criminal monetary penalties under the schedule of payments on Sheet 6.

TOTALS	<u>Assessment</u>	<u>Fine</u>	<u>Restitution</u>
	\$ 25.00	(*)	\$ 250.00

The determination of restitution is deferred until _____. An *Amended Judgment in a Criminal Case* (AO 245C) will be entered after such determination.

The defendant must make restitution (including community restitution) to the following payees in the amount listed below.

If the defendant makes a partial payment, each payee shall receive an approximately proportioned payment, unless specified otherwise in the priority order or percentage payment column below. However, pursuant to 18 U.S.C. § 3664(i), all nonfederal victims must be paid before the United States is paid.

Name of Payee	<u>Total Loss*</u>	<u>Restitution Ordered</u>	<u>Priority or Percentage</u>
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TOTALS	\$ _____	\$ _____
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Restitution amount ordered pursuant to plea agreement \$ _____

The defendant must pay interest on restitution and a fine of more than \$2,500, unless the restitution or fine is paid in full before the fifteenth day after the date of the judgment, pursuant to 18 U.S.C. § 3612(f). All of the payment options on Sheet 6 may be subject to penalties for delinquency and default, pursuant to 18 U.S.C. § 3612(g).

The court determined that the defendant does not have the ability to pay interest and it is ordered that:

the interest requirement is waived for the fine restitution.

the interest requirement for the fine restitution is modified as follows:

* Findings for the total amount of losses are required under Chapters 109A, 110, 110A, and 113A of Title 18 for offenses committed on or after September 13, 1994, but before April 23, 1996.

DEFENDANT: **Ben E. Phillips, Jr.**
CASE NUMBER: **09-CR-238 RFT**Judgment — Page 4 of 4**SCHEDULE OF PAYMENTS**

Having assessed the defendant's ability to pay, payment of the total criminal monetary penalties are due as follows:

- A In full immediately; or
- B Lump sum payment of \$ _____ due immediately, balance due
 - not later than _____, or
 - in accordance with D, E, F, or G below; or
- C Payment to begin immediately (may be combined with D, E, or G below); or
- D Payment in equal _____ (e.g., weekly, monthly, quarterly) installments of \$ _____ over a period of _____ (e.g., months or years), to commence _____ (e.g., 30 or 60 days) after the date of this judgment; or
- E Payment in equal _____ (e.g., weekly, monthly, quarterly) installments of \$ _____ over a period of _____ (e.g., months or years), to commence _____ (e.g., 30 or 60 days) after release from imprisonment to a term of supervision; or
- F Payment during the term of supervised release will commence within _____ (e.g., 30 or 60 days) after release from imprisonment. The court will set the payment plan based on an assessment of the defendant's ability to pay at that time; or
- G Special instructions regarding the payment of criminal monetary penalties:

Fine of \$250 and Special Assessment of \$25 are to be paid, in full, by June 22, 2009. Payment may be in lump sum or in increments.

Unless the court has expressly ordered otherwise, if this judgment imposes imprisonment, payment of criminal monetary penalties is due during imprisonment. All criminal monetary penalties, except those payments made through the Federal Bureau of Prisons' Inmate Financial Responsibility Program, are made to **Lawrence K. Baerman, Clerk, U.S. District Court, Federal Bldg., P.O. Box 7367, 100 S. Clinton Street, Syracuse, N.Y. 13261-7367**, unless otherwise directed by the court, the probation officer, or the United States attorney. If a victim cannot be located, the restitution paid to the Clerk of the Court for that victim shall be sent to the Treasury, to be retrieved if and when the victim is located.

The defendant shall receive credit for all payments previously made toward any criminal monetary penalties imposed.

- Joint and Several
- Defendant and Co-Defendant Names and Case Numbers (including defendant number), Total Amount, Joint and Several Amount, and corresponding payee, if appropriate.
- The Court gives notice that this case involves other defendants who may be held jointly and severally liable for payment of all or part of the restitution ordered herein and may order such payment in the future.
- The defendant shall pay the cost of prosecution.
- The defendant shall pay the following court cost(s):
- The defendant shall forfeit the defendant's interest in the following property to the United States:

Payments shall be applied in the following order: (1) assessment, (2) restitution principal, (3) restitution interest, (4) fine principal, (5) fine interest, (6) community restitution, (7) penalties, and (8) costs, including cost of prosecution and court costs.